

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

LIFE TECHNOLOGIES CORPORATION;
MOLECULAR PROBES, INC.; and THE
REGENTS OF THE UNIVERSITY OF
CALIFORNIA,

Plaintiffs,

vs.

EBIOSCIENCE, INC.,

Defendant.

CASE NO. 10-cv-2127 - IEG (NLS)

**ORDER GRANTING JOINT
MOTION FOR LEAVE TO FILE
AMENDED PRELIMINARY
INFRINGEMENT AND
INVALIDITY CONTENTIONS**

[Doc. No. 94]

Before the Court is the parties' joint motion for leave to file amended preliminary infringement and invalidity contentions. [Doc. No. 94.] Though such amendment is disfavored, it may be allowed "upon a showing of good cause." *See* Southern District of California Patent Local Rule 3.7; *see also CBS Interactive, Inc. v. Etilize, Inc.*, 257 F.R.D. 195, 201 (N.D. Cal. 2009) (the "good cause" requirement disallows such contentions "from becoming moving targets throughout the lawsuit."). The parties claim amendment is justified here to reflect the results of the United States Patent and Trademark Office's reexamination of two of the patents-in-suit, United States Patent Nos. 6,927,069 and 6,423,551. [See Doc. No. 94 at 2.] The parties further submit that their amendments "will not result in any new substantive contentions," nor "introduce any new claims or claim elements," nor "assert any new prior art." [*Id.*] Thus, to this limited extent, the Court finds good cause shown and hereby **GRANTS** the parties' motion as follows:

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- 2 1. The parties shall file amended preliminary infringement and invalidity contentions
- 3 no later than Friday, October 12, 2012;
- 4 2. The parties' amended contentions shall not contain any new substantive
- 5 contentions, claims or claim elements, or prior art.

6 **IT IS SO ORDERED.**

7 **DATED:** October 5, 2012



IRMA E. GONZALEZ
United States District Judge